

On the evening of 3/16/2009 in Philadelphia, Sontosh Clarke was pulled over by Defendant Brown and his partner PO Lee for traffic violations they observed. Clarke abandoned the car in a residential alleyway and ran away from the officers. Brown left the police car and chased after Clarke on his own. Lee stayed with the police car. After some distance Clarke hid behind bushes. Brown, drawing his gun, approached where Clarke hid at which point Clarke resumed running away. Brown followed. A few hundred yards and a few minutes later, in the 900 block of East Johnson Street just down from its intersection with Ardleigh Street, off the roadway near the sidewalk and grassy hill located beside a church, other officers arrived to find Defendant pacing back and forth, his hands on the sides of his head with his fingers reaching toward the top of his head in Johnson Street with Sontosh Clarke laying, face down on the sidewalk bleeding from a bullet wound to his right upper back as well as a gunshot wound through the topside of his left hand and two more bullet entrance wounds, one in

the middle of his abdomen and one in his left chest above the nipple. Clarke was unarmed. He was not under the influence of any drugs or alcohol. A cell phone lay only inches from his right hand by his side. Three shell casings lay a few feet away. Brown's ASP was located many feet away up the grassy hill toward the church buildings away from the sidewalk. At the scene of the shooting right after, officers Lee, Edmiston, Lupo and Sgt. Merrick arrived. Clarke was soon placed in Edmiston's police car and taken to Albert Einstein Medical Center where, despite the efforts of medical professionals, he was pronounced dead early at the start of March 17th, 2009. Photographs were taken of the scene, evidence, and later that night Brown as well as Sontosh Clarke the next morning, at the Philadelphia Medical Examiner's Office. DNA swipes and samples for gunshot residue testing were taken and tests performed. Brown spoke to Lee and Merrick that evening to relate a story of what had happened and how and why he came to kill Sontosh Clarke, an unarmed man, by shooting him three times. No gunshot residue was found on Clarke's skin or clothes as would be expected in a close range shooting. Over two years later, Brown, was finally required to give his first formal, written, signed statement to Internal Affairs about the killing and his story of what had happened. He had his attorney present to represent him while giving the statement. In brief, Brown said that he was being assaulted and choked by Clark, who had taken away Brown's ASP and then grabbed Brown's gun when, on his back, Brown drew it, got it free from Clarke, and fired saying he feared for his life. As discussed in more detail for purposes of the Motion for Summary Judgment in this matter, what Brown said happened is contradicted and belied by the physical evidence found, his own words, and those of his fellow officers.

III. MONETARY DAMAGES CLAIMED.

The monetary losses Plaintiff is seeking are: Funeral Expenses - \$10,000.00, Medical Bill from Albert Einstein Medical Center - \$ 2,840.50, Lost Household Services \$ 10,379.00, and Residual Lifetime Wages and Benefits after Maintenance \$ 128,570. Plaintiff Rafia Grooms is also making a claim for her Son's pain and suffering before death and the deprivation of his Fourth Amendment rights, namely, here – the right to life.

IV. WITNESSES.

A. Liability:

Defendant Britton Brown

PO Edmiston

PO Lupo

PO Lee

PO Lt. Merrick

PO Hummel

Gulino, MD – Chief Medical Examiner for the City of Philadelphia

PO Trenwith # 6298 (Crime Scene Unit PPD)

PO Detective Baker # 0612 (Homicide Unit PPD)

PO Lt. Prendergast (IAD assigned to shooting)

PO Lt. Nolan (IAD)

PO Lt. McDonald (IAD)

Gamal Emira (PPD Forensic Scientist)

Deanna Ferriola (PPD Forensic Scientist)

Lynn Haimowitz (PPD Forensic Scientist)

B. Damages:

Rafia Grooms, Mother and Administratrix for the Estate of Sontosh Clarke
701 Devonshire Drive
Williamstown NJ 08094

Gary Barach, CPA, CFE, CFF, CVA
Ten Penn Center, Suite 1810
Philadelphia PA 19103

Note: All the above witnesses are employees of the City of Philadelphia save for Rafia Grooms and Mr. Barach. Plaintiff reserves the right to call any witness identified or listed by Defendant as well as rebuttal witnesses as necessary.

V. EXHIBITS.

Complaint

Answer

Defendant Brown's Answers to Interrogatories

Aerial Photo of Area Involved with Shooting Scene

PPD Photos of Shooting scene (general with PPD placards, cell phone, casings, blood on sidewalk)

PPD Photos of Shooting scene (ASP in grass on embankment as well as overview of street)

PPD Police Radio Transmission Tapes

IAD Statement of Brown

IAD Shooting Scene Diagram by Brown

Photo of Clarke's Short Sleeve Aeropostale White Shirt

Photo of Clarke's Thermal Long Sleeve Shirt

Photo of Clarke's Tan Cargo Pants

Photo of Clarke's Sneakers

IAD Photos of Utility Belt

IAD Photo of Ballistic Vest Carrier

IAD Photo of Ballistic Vest Carrier

IAD Photo of Brown's Shirt

IAD Photo of Brown's Shirt

IAD Photos of Brown's Pants

IAD Photo of Brown's Left Knee

IAD Photo of Brown's Right Knee

Photo of Brown in Fighting Ring with Trophy

Photo of Brown with UFC fighter Randy Couture

Photo of Brown in New World Martial Arts group photo labeled MMA Black Belts

Deposition of Brown and all Exhibits thereto

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Deposition of PO Edmiston and all Exhibits thereto

Homicide Statement of Edmiston

Deposition of PO Lupo and all Exhibits thereto

Homicide Statement of Lupo

Deposition of PO Lee and all Exhibits thereto

Homicide Statement of Lee

Deposition of PO Lt. Merrick and all Exhibits thereto

IAD Statement of Merrick

IAD Diagram of Merrick

CV of Medical Examiner Gulino, MD

Report of Medical Examiner Gulino, MD

Photos of Sontosh Clarke from Medical Examiner's Office (torso (redacted to cover groin and buttocks), left hand dorsal and palmar, knees/legs, face/chin, left forearm)

Deposition of Gulino, MD, Medical Examiner and all Exhibits thereto

PPD Property Receipts

PPD Criminalistics Lab Report (Emira and Ferriola)

PPD DNA Lab Report (Haimowitz)

Photo of Sontosh Clarke

AEMC Medical Bill for 3/17/2009 services.

CV of Barach

USDHHS Life Tables, National Vital Statistics Reports 2011

Report of Barach (financial/valuation forensics) prepared for Defendant.

Plaintiff reserves the right to use any exhibit listed and/or used by Defendant as well as exhibits for rebuttal as necessary.

VI. ESTIMATED TIME FOR TRIAL.

At present, Plaintiff estimates the trial of this matter will take 4 to 5 days.

VII. LEGAL ISSUES, STIPULATIONS AND OTHER MATTERS.

Plaintiff's motions in limine to exclude expert testimony will be presented. Stipulations as to forensic evidence as well as damages which would streamline the trial of this matter are yet to be reached.

LAW OFFICE OF JOHN N. RIGHTMYER

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